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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,452	10/22/2003	Lawrence E. Hannon	HANN-001	1974
23996	7590	06/06/2006	EXAMINER	
RICK MARTIN PATENT LAW OFFICES OF RICK MARTIN, PC 416 COFFMAN STREET LONGMONT, CO 80501			VALENTI, ANDREA M	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/692,452	HANNON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrea M. Valenti	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 46-51 is/are pending in the application.
- 4a) Of the above claim(s) 46-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Species B, claims 49-51 in the reply filed on 15 March 2006 is acknowledged.

### ***Claim Objections***

Claim 49 is objected to because of the following informalities:

Claim 49, line 9, "a first end resting the groove" should be --a first end resting in the groove--

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,950,568 to Axelrod et al in view of U.S. Patent No. 2,464,866 to Holtz.

Regarding Claim 49, Axelrod teaches a non human mammal pen (Axelrod Col. 15-20) comprising a body (Axelrod #26) having a top surface and a bottom surface opposite the top surface, the body having a substantially planar shape, the body further having a perimeter; a groove in the top surface spaced a given distance inward from the perimeter of the body (Axelrod Fig. 6 receives element #20), the groove extending around a diameter of the body (applicant has not claimed that it extends continuously),

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the groove having a depth; a removable pen wall (Axelrod Fig. 6 #20) disposed within and retained by the groove, the pen wall having a first end resting the groove and a second end extending away from the first end, the body forming the bottom of the non-human mammal pen system.

Axelrod teaches the pen folds, but is silent on explicitly teaching the body being configured to fold along at least one fold line. However, Holtz teaches a pen that has a bottom configured to fold. It would have been obvious to one of ordinary skill in the art to modify the teachings of Axelrod with the teachings of Holtz at the time of the invention for ease of carrying as taught by Holtz (Holtz Fig. 2)

Regarding Claim 50, Axelrod as modified teaches the pen wall being substantially rigid (Axelrod Fig. 5).

Regarding Claim 51, Axelrod as modified teaches the body being flexible (Axelrod teaches polymeric foam material which has some degree of flexibility).

### ***Response to Arguments***

Applicant's arguments with respect to claims 49-51 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,033,493 and French Patent FR 2523832A.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Andrea M. Valenti  
Patent Examiner  
Art Unit 3643

22 May 2006